Honolulu High-Capacity Transit Corridor Project
FTA 10/31/09 Comments

FTA's comments are appreciated as the project team works to finalize the Final EIS document for publication. The project team can easily address some of FTA's comments; however, some comments are not as clear to the project team. We hope that by clarifying our approach below, we can come to some understanding on how to effectively and expeditiously address FTA's comments.

Comments specific to the 4(f) chapter

1. On page 5-2, the terminology in the first half of the first column shifts from "use" to mention of "direct impacts," the latter of which does not seem relevant to Section 4(f) analysis.

The terminology will be reviewed and changed from "impact" to "use" throughout the Section 4(f) Evaluation as appropriate.

OK.

2. On page 5-2, we provide a somewhat unclear introduction (top of second column) to Section 4(f) by not mentioning de minimis.

The discussion of de minimis will be moved under Direct Use to clarify the introduction.

OK.

3. On page 5-5, the table provides a column for "description of impact," which it seems to be should be "description of use."

The column on page 5-5, Description of Impact, has been deleted from the table. The discussion of the use of park and recreation resources was moved under the last column of the table "Section 4(f) Use" for Aloha Stadium and Ke'ehi Lagoon Beach Park.

OK.

4. On page 5-6, we state that "it cannot be determined at this time whether any archaeological resources will be encountered . . .," but it doesn't list why that is so. In fact, it suggests that additional archaeological work will be completed prior to construction, but no reason is given for why that work cannot be completed now. FTA raises this specifically because the National Trust comment letter specifically raised it, and that letter suggests that an Archaeological Inventory Survey could be completed now. If that is true, it seems that we would need some good justification, reproduced in the Section 4(f) statement in the FEIS, as to why it is not being done. Also, with respect to archaeological resources, it has been

suggested that alternatives to the alignment that the National Trust raises concerns about also have high known concentrations of burial sites, which would at least provide some additional support. If such a case can be made, it seems like we would want to point it out in the FEIS.

Background

Due to the large land areas and restricted access to properties along the Project corridor, FTA and SHPD have agreed that a phased approach to identification and evaluation of archeological sites is appropriate pursuant to 36 CFR § 800.4(b)(2). This approach is documented in the Programmatic Agreement (PA) for the Project, which was developed with input from the Section 106 consulting parties and will be included in Appendix H of the Final EIS.

The likely presence of historic properties (which may include Native Hawaiian burials that are eligible for listing on the NRHP) within the area of potential effect was determined through studies completed by the City during the Alternatives Analysis (AA) phase. The information was used as one of the evaluation criteria in selecting the locally preferred alternative as documented in the AA and previous technical studies. No known archeological resources (including Native Hawaiian burials) eligible for inclusion in the NRHP were located within the APE; therefore, archeological resources are not discussed in the Section 4(f) Evaluation in the Final EIS. This is further explained in Chapter 4 of the Final EIS.

Final identification and evaluation of historic properties is specifically provided for in the PA, which takes into account the view of the SHPO and other consulting parties. The highest potential for encountering archeological resources (including native Hawaiian burials) was determined to be in the Waiakamilo Road to Ala Moana Center area (within construction phase 4: Middle Street to Ala Moana Stations). In this area, the PA requires an Archeological Inventory Survey (AIS) to evaluate areas that will be disturbed by the Project. The specific presence of burials cannot be determined without excavations within active roadways. Consequently, the PA defers the AIS until sufficient design is available to support excavation in the specific locations that would be disturbed by the Project, rather than using a random approach that would have provided only general information.

The PA also takes into account state laws, which allow the O`ahu Island Burial Council (OIBC) or SHPD to determine the treatment of Native Hawaiian burials. Pursuant to HAR, Title 13, Subtitle 13, Chapter 300, the OIBC will have jurisdiction to determine the treatment of previously identified Native Hawaiian burial sites and any Native Hawaiian burials discovered during the AIS will be treated as previously identified burials. Section III of the PA, Identification and Protection of Archeological Sites and Burials, identifies the stipulations the City will implement before each of the four construction phases. As agreed to in the PA, the City will develop an AIS Plan and submit this plan to SHPD for comments in accordance with state law.

The City, in coordination with OIBC, will develop a protocol for consultation regarding treatment of Native Hawaiian burials discovered during the AIS. If a burial is determined to be a Section 4(f) resource, the City will comply with Section 4(f). However, even if a burial is not a Section 4(f) resource, the City has agreed to consider avoidance to allow for preservation in place or reinterment options, as required by state law. Avoidance options include relocation of columns, change of column design, modification of span length and alternate utility locations. The specific treatment plan will avoid, minimize or mitigate adverse effects to Native Hawaiian burials pursuant to applicable state laws including Hawai'i Revised Statues, Chapter 6E and HAR, Title 13, Subtitle 13, Chapter 300. (This distinction will be clarified in the Final EIS Section 4.16.)

Response to Comment
Language in the Section 4(f) Evaluation regarding archeological resources will be clarified to reflect the process agreed upon in the PA. Since there are no identified archeological resources eligible for or on the NRHP, the Corporation Counsel (with its consultant Nossaman, LLP) advised RTD to not include these resources in the Section 4(f) Evaluation. The City will complete a Section 4(f) Evaluation for archeological sites eligible for the NRHP identified by the AIS or inadvertently discovered during construction as applicable.

Questions
The discussion regarding the process described is included in the PA, which is an appendix to the Final EIS. The process is summarized in Chapter 4. Would adding additional detail (similar to the above description) to Chapter 4 of the Final EIS address this comment? A reference to Chapter 4 would be added to the Section 4(f) Evaluation (Chapter 5 of the Final EIS) to refer to this discussion.

Yes, that detail should be added to Chapter 4, and please also include the additional detail in the Section 4(f) chapter or a very explicit reference to the location in Chapter 4 (with a page number). The Section 4(f) chapter should also include a statement similar to that under "Response to Comment" above, i.e., that a Section 4(f) evaluation will be completed upon discovery of archeological resources for which Section 4(f) would apply.

5. Page 5-14 begins discussion of Ke'ehi Lagoon Beach Park. First of all, why not a de minimis for this? It seems as if it would have been a good candidate. The avoidance alternative is not really an avoidance alternative as it would also use Section 4(f) properties. Thus, it seems that a least harm analysis should be done here or the analysis should be more carefully incorporated by reference. Finally, there is no mention of whether noise walls will be used as one possible measure to minimize harm to the park, especially given the proximity to a number of tennis courts.

Background

The Administrative Draft EIS included a de minimis impact at Ke'ehi Lagoon Beach Park. On September 18, 2008, the City received a comment from FTA on the Administrative Draft EIS (below) and the City revised the Draft EIS to reflect this decision.

The City and County of Honolulu Department of Parks and Recreation had concurred with the de minimis determination in a letter to Wayne Yoshioka, Director, DTS on September 25, 2008.

FTA submitted comments to RTD on September 18, 2008, based on their review of the Administrative Draft EIS (August 18, 2008):

"In the case of Ke'ehi Park Lagoon, the view of the City Department of Parks and recreation (DPR) not withstanding, FTA would not agree that the impacts here are *de minimis*. If the applicants were willing to demonstrate that they rigorously reviewed other possible alternatives to the Ke'ehi Park alignment, FTA might be willing to approve the alignment based upon 23 CFR 774.3 (a) (1) and (2). In addition, as mitigation, the applicant would be required to demonstrate that they have adequately compensated the DPR for its lost resource.

- Demonstrate that there are no prudent and feasible avoidance alternatives to the use of the Ke'ehi Park lagoon property.
- Demonstrate that DTS has carried out all possible planning to minimize harm to the property."

Questions

This comment contradicts comments received previously from FTA. Does FTA still want the City to change the Final EIS after consideration of the previous FTA comments? If so, would a new concurrence letter be required?

As advised by Corporation Counsel (with its consultant Nossaman, LLP) there is risk in presenting new information that results in new conclusions made in the Final EIS. In addition, there is a concern that because the Draft EIS presented an alternatives analysis, a *de minimis* analysis might raise suspicions that there is something wrong with the alternatives analysis. Notwithstanding, the de minimis determination for Ke'ehi Lagoon Beach Park would present a stronger case for least overall harm (i.e., since there would be no impact to this park with the Salt Lake Alternative). Does FTA concur that this potential risk outweighs the benefit? If so, we request that the FTA make its request clear for the record.

If Ke'ehi Lagoon Beach Park remains direct use (not de minimis), the avoidance alternative is the Salt Lake alignment. The City will incorporate the least overall harm discussion by reference. The figure will be revised to reflect that the avoidance alternative is an alternative to minimize use of the park.

Noise walls were not considered for this park since there is no noise impact from the Project. A reference to Section 4.10 of the Final EIS and Figure 4-55 will be added. Will that satisfy FTA's comment?

Needs further discussion

6. Pages 5-18 through 5-22 (Afuso House, Higa Fourplex, and Teixeira House). First of all, the text for all three of these with respect to avoidance and minimization of harm is nearly identical; it seems that these three could be grouped for purposes of Section 4(f) analysis. As with the Ke'ehi Lagoon Beach Park, the avoidance alternative sections here only list alternatives that would use Section 4(f) resources and are thus not really avoidance alternatives (although the mauka shift alternative does not clearly state whether it would "use" Section 4(f) resources, but rather it says it would "impact" them, which is not very relevant for the analysis. It should clarify whether the mauka shift would "use" Section 4(f) resources, and, if it would, then it should do a least overall harm analysis. One true avoidance alternative to the use of these three properties is not even mentioned here, but rather under the "lava rocks" section on 5-23, and that is to not widen Dillingham Boulevard. It should be mentioned here, and it should also explain why it is not feasible and prudent (or not possible as a measure to minimize harm) to not reduce Dillingham Boulevard to 2 lanes from 4 lanes in order to allow the construction of the guideway without widening Dillingham Boulevard (or remove on-street parking if it is currently there). The analysis should address the question of why an alignment down Nimitz, turning at Waiakamilo Road, and then on to Dillingham is not considered. It appears from maps that there is unused median space on Nimitz, and that such an alignment would entirely avoid these three buildings and the lava rock curbs on Dillingham. Finally, the concluding paragraphs for all three buildings state that they will be removed, but it is not clear whether they will be moved (which would be a measure to minimize harm) or demolished. The ultimate fate of the buildings should be clarified.

Background and Questions

We were advised by the City Corporation Counsel (with its consultant Nossaman, LLP) that historic properties on Dillingham Boulevard adversely affected by the Project should be discussed as individual properties in the Section 4(f) Evaluation so as not to imply that Dillingham Boulevard should be considered a historic district. Combining the resources was considered by the City and the decision was made to evaluate them separately. For this reason, the avoidance alternatives presented in the Final EIS include those alternatives that avoid each of the resources on an individual basis.

I don't think there is any concern with grouping them, but it is fine to treat them individually. It would be easier on the reader to group them, but keeping them separate doesn't harm the analysis in any way.

This approach was used for the Section 4(f) Evaluation (i.e. resource by resource) since there is no feasible and prudent alternative that would completely avoid Section 4(f) resources. This approach is explained in Section 5.3 and Section 5.5, Direct Use of Section 4(f) Resources, and refers to Chapter 2. This section also explains that there is no alternative identified that would completely avoid Section 4(f) resources and meet the project purpose and need. The intent of the introductory sections was to limit the discussion of avoidance alternatives to options that would avoid the individual resource. According to the FHWA Section 4(f) Policy Paper, March 2005, and 23 CFR § 774.17, we did not have to consider alternatives that did not meet purpose and need, because Section 4(f) does not consider avoidance alternatives that do not meet purpose and need.

The FHWA policy paper is a useful resource where the joint FTA/FHWA Section 4(f) regulations do not clearly address an issue. But here, the regulations, which are also later in time than the policy paper, clearly address the issue, and it is not quite so simply stated as the alternative "not meeting purpose and need." Further, any avoidance alternative to a Section 4(f) use must be evaluated to determine whether it would be "feasible and prudent" in light of the regulatory language at 23 CFR § 774.17. And that means providing analysis, not just stating that one of the factors for eliminating an alternative apply (e.g., for the purpose and need factor, which states that "It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need," the document needs to explain exactly how the alternative compromises the project). With respect to the resources along Dillingham, it seems that there are potentially several avoidance alternatives that need to be assessed for whether they are prudent and feasible under the regulation at 774.17. For example, and there may be more than this:

1. **Eliminating one or more lanes on Dillingham (either in the area of the historic properties or throughout the length of the rail alignment)**
2. **Eliminating on-street parking (either in the area of the historic properties or throughout the length of the rail alignment)**
3. **Straddle-bent supports in the vicinity of the historic properties to avoid needing to widen the road in that area.**
4. **Shifting the alignment of the road in the vicinity of the historic properties**
5. **An alignment down Nimitz turning and Waiakamilo road**
6. **Tunneling in the vicinity of the historic properties**

Each avoidance alternative must be considered, with analysis clearly demonstrating whether it is feasible or prudent pursuant to the factors in the regulation.

However, an avoidance alternative that includes narrowing of Dillingham Boulevard and an alignment down Nimitz, turning at Waiakamilo Road, and then on to Dillingham can be included in the Section 4(f) Evaluation with an explanation as to why these are not feasible and prudent alternatives (if the City changes approach to the Section 4(f) Evaluation).

Yes, per the above comment.

The concluding paragraphs can be clarified to explain that these three buildings will be demolished.

Yes, the text needs to clearly state what will happen to the buildings.

Questions
Based on advice of the City Corporation Counsel (with its consultant Nossaman, LLP), the introduction of the Section 4(f) Evaluation was intended to say that the no build and other alternatives that did not meet purpose and need, and were not studied in the Draft EIS, are not feasible and prudent, and therefore, not included in the Section 4(f) Evaluation as avoidance alternatives.

Based on the advice of the City Corporation Counsel (with its consultant Nossaman, LLP) the least overall harm discussion was based on the evaluation of the alternative as a whole, not for each individual resource. The least overall harm analysis was written from the point of view of complete alternatives that were prudent and feasible, rather than for individual resources. The reasoning for this is that any alternative alignment will impact historic resources and therefore, result in Section 4(f) use.

FTA's suggestions for least overall harm analysis conflicts with direction provided by the City Corporation Counsel (with its consultant Nossaman, LLP) to focus on the larger alternatives. Does FTA want a least overall harm analysis for each resource? Group resources by area? Or add this to the existing least overall harm analysis in Section 5.8?

It is now clear that there are alternatives that would avoid the use of all Section 4(f) resources in this area of the project, so there is no need to do a least overall harm analysis at this level of analysis. Rather, as detailed above, there needs to be an analysis of feasible and prudent avoidance alternatives, and the least overall harm analysis can remain at the larger scale level comparing entire alignment alternatives.

7. Pages 5-23 through 5-25 (Lava Rock Curbs on Halekauwila). The avoidance alternatives section here particularly needs improvement. First, in the first paragraph, it is not clear whether these three alternatives are truly avoidance alternatives (normally they would be, but the earlier sections of the document have primarily included "non-avoidance" alternatives into the avoidance alternative sections). So, that should be clarified first of all, and if they are not avoidance alternatives (the Section 4(f) resources that would be used by the alternatives needs to be listed), a least overall harm analysis needs to be completed (saying something would provide "poor transit benefits" falls far short of a least overall harm analysis). If they are in fact avoidance alternatives, there needs to be far more justification for eliminating them as not being prudent and feasible than the one phrase each in that first paragraph. As for the Queen Street

alignment, it states that it is not an avoidance alternative (despite being in a section so named), but there appears to be no least overall harm analysis. It is not clear which alternative is being discussed where it says "elevated system on either Beretania or King Street," but the fact that it would run in front of certain buildings and remove traffic lanes does not appear to support the concluding statement of the paragraph that it would not meet purpose and need. It also fails to tell the reader whether it is an avoidance alternative, and, finally whether it would be a prudent and feasible avoidance alternative. Finally, it also fails to state here whether removing the on-street parking would allow construction of the guideway without removal of the lava rock curbs.

We are working with the project engineers to develop and evaluate an avoidance alternative to the removal of the Lava Rock Curbs on Halekauwila. The above questions regarding approach to avoidance alternatives and least overall harm apply to this resource as well.

See detailed response above (i.e., language that includes list of some avoidance alternatives) on the need for an evaluation of <u>all</u> avoidance alternatives, with clear analysis as to whether any of them or feasible and prudent. The same needs to be completed for each resource in this section. As above, because there are avoidance alternatives, there is no need for an "overall least harm" analysis at this level.

8. Page 5-26. Under "application of Section 4(f)" for "Boulevard Saimin," it states that the parcel would be "affected" by the widening of the road, which is not very relevant for purposes of Section 4(f). It should rather state that the parcel will be "used" by the project, if that is the case.

The terminology will be reviewed and changed from "affected" to "used".

OK.

9. Page 5-27. It appears that non-avoidance alternatives are listed here under the "Avoidance Alternatives" section for the Canal Bridge, and that the analysis here fails to provide sufficient justification needed for a "least overall harm" analysis. Further, under one true avoidance alternative, which is to not widen the bridge or Dillingham, there is no discussion of whether it would be prudent or feasible to not widen the bridge and Dillingham through removal of lanes and on-street parking. At the end of the "avoidance" analysis, it states that one alternative is not feasible because it would require an unsafe lane shift. First, feasibility only refers to engineering feasibility, not safety concerns, so this should have an analysis of overall prudence. Second, there is no discussion as to why the lane shift would be unsafe (e.g., was a traffic engineer consulted?)

The issue for Kapalama Canal Stream Bridge is the same as discussed above for comment 6.

The feasible and prudent discussion can be enhanced.

See detailed response above (i.e., language that includes list of some avoidance alternatives) on the need for an evaluation of all avoidance alternatives, with clear analysis as to whether any of them or feasible and prudent. The same needs to be completed for each resource in this section. As above, because there are avoidance alternatives, there is no need for an "overall least harm" analysis at this level.

10. Page 5-28 (Six Quonset Huts). It states that the project will not "directly affect the buildings" but that it "will substantially impair the setting, feeling, and location of the historic property." Does this mean it is an "adverse affect" under Section 106? It suggests this under a later section, but it is not really clear here. The avoidance alternatives section on page 5-29 again lists alternatives that would not entirely avoid Section 4(f) resources. Also, the mauka shift alternative does not appear to really be considered here as this portion of the alignment is quite far from the historic resources cited as being used by the shift (i.e., Duarte House, the 10 courtyard houses, and the market are way on the other side of the canal bridge). There is no justification given as to why you could not shift to the mauka side in this section of Dillingham and leave the alignment in the median on the other side of the canal bridge. Further, it doesn't appear to consider not widening Dillingham through the removal of traffic lanes or on-street parking.

The issue for the Six Quonset Huts is the same as discussed above for comment 6.

See detailed response above (i.e., language that includes list of some avoidance alternatives) on the need for an evaluation of all avoidance alternatives, with clear analysis as to whether any of them or feasible and prudent. The same needs to be completed for this resource. As above, because there are avoidance alternatives, there is no need for an "overall least harm" analysis at this level.

The introduction to the discussion of the historic resources refers to the Final EIS Section 4.16 and does state in several locations in the Section 4(f) Evaluation that historic resources that have been determined to have an adverse effect under Section 106 are the resources that are included in the evaluation.

Please clarify that language, because there may be a Section 4(f) use (albeit de minimis) even in an instance where there is a "no adverse effect" determination under Section 106.

Questions

At the advice of the City Corporation Counsel (with its consultant Nossaman, LLP), while Section 4(f) is tied to the Section 106 process and a link needs to be included, the Section 4(f) Evaluation needs to consider the use based on the requirements of the Section 4(f) regulations and FHWA Section 4(f) Policy Paper. This rationale was used to

differentiate the adverse effect under Section 106 based on general effect and/or effects related to the setting of the historic property and the constructive use evaluation and criteria related to the Section 4(f) Evaluation.

Please see my previous comment.

11. The issues mentioned above with respect to the other properties on Dillingham apply equally to the section on True Kamani trees starting on Page 5-29.

The issue for True Kamani trees is the same as discussed above for comment 6.

See detailed response above (i.e., language that includes list of some avoidance alternatives) on the need for an evaluation of all avoidance alternatives, with clear analysis as to whether any of them or feasible and prudent. The same needs to be completed for this resource. As above, because there are avoidance alternatives, there is no need for an "overall least harm" analysis at this level.

12. Page 5-30 (O'ahu Railway and Land Company Terminal Building and Office/Document Storage Building). It is not clear as to whether there is an adverse effect under Section 106. If not, then it should be de minimis. As with comment #7 above, the avoidance alternatives section is inadequate.

The introduction to the discussion of the historic resources refers to the Final EIS Section 4.16 and does state in several locations in the Section 4(f) Evaluation that historic resources that have been determined to have adverse effect under Section 106 are the resources that are included in the evaluation.

The OR&L Company Terminal Building and Office/Document Storage Building were determined to have an adverse effect under Section 106; therefore, a direct use analysis is included in the Section 4(f) Evaluation. The other 2 resources on this property were determined to have no adverse effect under Section 106; therefore, a de minimis impact can be used for those. For reasons explained for the Dillingham Boulevard properties, the City Corporation Counsel (Nossaman) advised RTD to maintain separate discussions of these resources so as not to suggest that this is a district.

As stated above, that is fine.

The Project would be constructed on an existing transportation easement through this property. There is no avoidance alternative other than the No Build Alternative.

Right now, the document suggests that there are numerous avoidance alternatives other than the no build alternative: "Six alternatives were analyzed for the segment from Iwilei to UH Mānoa. Three alignments would have performed poorly in the areas of transportation benefits, environmental consequences, and costs. The Beretania Street/South King Street alignment would provide poor transit benefits.

The Hotel Street/Kawaiaha'o Street/Kapi'olani Boulevard alignment would create substantial environmental impacts compared to the other alignments. The King Street Tunnel/Waimanu Street/Kapi'olani Boulevard alignment would cost over $500 million more than the other alignments. The remaining alignments, Nimitz Highway/Queen Street/Kapi'olani Boulevard and Nimitz Highway/Halekauwila Street/Kapi'olani Boulevard, would have similar transportation benefits, but the Queen Street alignment would have identical effects to these resources." Page 5-31. Further, figure 5-21 on page 5-32 graphically shows two alternatives that are labeled "avoidance" alternatives. If these are not true avoidance alternatives (i.e., they use other Section 4(f) resources), then they should not be labeled as such.

The discussion of these alternatives, quoted verbatim above, is insufficient to meet the requirements of the regulation. If an avoidance alternative is to be eliminated as not feasible and not prudent, there must be a clear demonstration that one of the factors in 774.17 applies. None of the reasons above, which are simply averred rather than demonstrated through evidence, rises to the level of justification required by the regulation.

In addition to the six alternatives detailed on page 5-31, the following appear to be potential avoidance alternatives that should be considered under the feasible and prudence factors in the regulation:

1. **Dillingham to Kuwii to Iwilei to northbound Nimitz**
2. **Dillingham to Sumner to Iwilei to northbound Nimitz**
3. **Dillingham to Sumner across Iwilei to southbound Nimitz**
4. **Dillingham to King, crossing over the river to northbound Nimitz**
5. **Any other alternative alignments in the vicinity of the historic resource that would avoid a use.**

Each avoidance alternative must be considered, with analysis clearly demonstrating whether it is feasible or prudent pursuant to the factors in the regulation.

13. Chinatown avoidance alternatives on page 5-35. As with comment above, the avoidance section here is inadequate. The statement that it has been demonstrated that there are no feasible and prudent avoidance alternatives lacks any real support. There needs to be a detailed analysis of all of the factors listed in the Section 4(f) regulation under the definition of feasible and prudent avoidance alternatives for each avoidance alternative, and an "overall least harm" analysis to compare alternatives that are not true avoidance alternatives.

There is no true avoidance alternative other than the No Build Alternative.

Figure 5-25 on page 5-34 labels an avoidance alternative that does not appear to be an avoidance alternative. This should be fixed or clarified, along with any text that is similarly misleading.

14. Dillingham Transportation Building (pages 5-35 through 5-36). There is no mention as to whether this is a no adverse effect and de minimis might apply. If it is an adverse effect and Section 4(f) applies, then the avoidance section is inadequate. As above, it starts off with non-avoidance alternatives. In the third paragraph of the avoidance section, it states that an alternative would not be feasible because it would require demolition of a high-rise building. That is not grounds for infeasibility. The section must consider whether demolition of the office building would be prudent under our regulation unless that office building is protected by Section 4(f). Also, there is no section discussing measures to minimize harm. Finally, the concluding statement in the section states that there are practical avoidance alternatives and simply leaves it at that. There are discussed later, but the way it is stated for this resource looks really inadequate (i.e., it makes it sound as if there are prudent and feasible alternatives that we are ignoring).

As discussed in comment 6, the explanation of effect determinations for resources discussed in the Section 4(f) Evaluation is explained. There is an adverse effect to the Dillingham Transportation Building. The direct use is of the plaza which is on the same property as the Dillingham Transportation Building, but is not a contributing element to its eligibility on the NRHP. The wording of the demolition of the office building will be clarified. Measures to minimize harm were mistakenly deleted from this version. It had been included in prior versions and will be included in the final version. The rest of this text will be clarified.

There needs to be more than clarification of the demolition of the office building. Unless that alternative will be chosen, it must be clearly demonstrated to be infeasible and imprudent under the regulation.

15. HECO Plant and Hicks Building (page 5-39). As with above, a non-avoidance alternative is listed under avoidance alternatives. Further, the mention of small shifts of the station entrance requiring demolition of a high-rise building fail to consider the other factors needed for a feasible and prudence analysis. There is no discussion of how large the building to be demolished is, how many people work there, or whether a station entrance might be incorporated into the building. All of those facts need to be balanced against the other factors in the Section 4(f) regulation, and a decision must be made with a "thumb on the scale" in favor of protecting the Section 4(f) resource. There also appears to be no consideration for keeping the existing station location and placing one entrance where there are currently parking lots at Irwin Park (across the street from where the current design would demolish part of the HECO Plant/Hicks Building roof). It seems an obvious possible location for an entrance, and even though it is not an avoidance

alternative, it seems as if a "least overall harm" analysis should be done. Also, there should be clarification as to whether there has been a finding of adverse effect under Section 106 for this resource.

The only true avoidance of the HECO plant and Dillingham Building is the no build alternative (the same station impacts both properties). The Project will have an adverse effect on both of these resources as well as Irwin Park (historic resource and a park).

Wouldn't the Alakea Street location for the station avoid one or both of these resources? If so, the analysis of that location must be referenced here.

16. Pages 5-39 through 5-40 (alternative downtown station locations). This section states that Alakea Street location is not prudent because both station entrances would present conflicts with parking garage entrances that are too busy. For the Pacific Guardian entrance, there is some analysis of the number of pedestrians and cars per minute at this location during the peak hour. This figure should be compared to the number of pedestrian auto conflicts at this location under the current design, as it is conceivable that some users under the current design might also walk past that garage entrance. For the Harbor Square residential building, no figure as to the number of automobiles and pedestrians is given. Presumably, because this is a downtown residential location, there would be fewer automobiles exiting the facility. Also, because the primary destinations are the Waterfront and the Aloha Tower Marketplace (see page 5-40), there might not be a large number of people walking in the other direction. A pedestrian/auto number should be given here and compared with the current design. For both alternatives, other relevant factors in the Section 4(f) regulation need to be balanced with this safety issue.

Additional information regarding the pedestrian flow through downtown will be added. Pedestrian traffic is primarily in the direction of Bishop Street.

If pedestrian traffic flow is primarily in the direction of Bishop Street, that it seems that someone existing at the corner of Nimitz and Alakea would walk down Nimitz to get to Bishop street rather than past the garage entrances on Alakea. This needs to be explained and sufficient data provided. Further, this avoidance alternative can only be eliminated by demonstrating clearly that it is infeasible and/or imprudent pursuant to one of the factors in the regulation.

17. Page 5-40 (Fort Street alternative). This alternative is analyzed as a feasible and prudent avoidance alternative, but it is not an avoidance alternative. An overall least harm analysis needs to be completed instead.

Question raised for comment 6 applies regarding approach.

It is now clear that there are alternatives that would avoid the use of all Section 4(f) resources in this area of the project, so there is no need to do a least overall harm

analysis at this level of analysis. But it does need to be clarified that this is not an avoidance alternative, which also means changing the heading.

18. Page 5-60 (Temporary use). It is difficult to know from this description, but it sounds as if the pipe will actually "use" the Pearl Harbor NHL, and the chart on page 5-11 also seems to suggest that by listing Pearl Harbor NHL as a "temporary occupancy". Alternatively, the bike path is not listed as a "temporary occupancy" on page 5-5. For both the bike path and the Pearl Harbor NHL, this section fails to demonstrate that the five requirements of the Section 4(f) regulation for temporary occupancies at 23 CFR 774.13(d) have been met, most notably concurrence of the officials with jurisdiction (although evidence should be provided for all of the requirements).

The stormwater outfall has been moved to be outside the Pearl Harbor NHL to reduce impacts to wetlands and waters of the U.S. The outfall will be constructed to cross the bike path. Special provisions have been prepared and included in the design-build contract that require that the bike path remain open during construction and restored to existing conditions after construction.

Questions

Since there are no longer impacts to the Pearl Harbor NHL and there are special provisions for the maintenance and storage facility contract that require the design-build contractor to keep the bike path open during construction and re-pave to existing conditions, the City proposes to entirely remove the temporary use discussion from the Final EIS. Moving the outfall out of the Pearl Harbor NHL was done to avoid impacts to waters of the U.S. If this is acceptable to FTA, this entire section will be removed from the Section 4(f) Evaluation; if not, the wording will be revised to remove impacts to the Pearl Harbor NHL and include the requirements for temporary use as per the regulations for the bike trail.

That the stormwater outfall will no longer be located in the historic district needs to be corrected. As for the bike path, the text must demonstrate that all five requirements of the Section 4(f) regulation for temporary occupancies at 23 CFR 774.13(d) have been met.

19. Starting on page 5-60 (Least Overall Harm). This section might work better more toward the beginning of the Section 4(f) chapter as it concerns large-scale alternatives and provides context for some of the discussions in the rest of the document. This section does not do a very good job of summing up the overall differences between the two alternatives with respect to the relative harm to Section 4(f) resources and the relative significance of those resources. There is no conclusion stated in those respects. Under the "purpose and need" item, there is some discussion of one alternative having better mobility benefits, but this is not tied at all to purpose and need. Also, it is not quantified at all, so there is no sense

as to whether the difference in benefit is large or small. Without that additional analysis, it is difficult to make any conclusions based on purpose and need. Finally, there is no consideration of differences in costs between these two alternatives, and there should at least be some discussion of it or why it does not apply.

This section has been reviewed by the City Corporation Counsel (with its consultant Nossaman, LLP). Resolution of the questions regarding approach to the Section 4(f) analysis will determine how to address this comment. This section was added to the end of the Section 4(f) Evaluation to serve as a summary comparison of the feasible and prudent alternatives discussed in the Final EIS.

A large scale, "overall least harm" analysis must still be included. The comments concerning the extent and completeness of the analysis still apply. The analysis must clearly demonstrate that the alternative with the overall least harm has been selected, closely following all of the factors enumerated in the regulation.